

Notice of Allowability

Application No.

10/541,359

Examiner

Magali P. Théodore

Applicant(s)

SCHAFFNER, DAVID

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment of 8/4/2009.
2. ☒ The allowed claim(s) is/are 1,2,4-7 and 10.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>20091116</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Bryan H. Davidson on November 16, 2009.

The application has been amended as follows:

In the substitute specification:

Page 4 paragraph 2 line 2, after "nozzles 30 at the" deleted "tope" and inserted -- top --.

In the claims:

Claim 1 step (a) (iii) before "inlet tube" deleted "a" and inserted -- an --.

Claim 1 step (c) line 5 before "coated with an adhesive layer" deleted "first".

Claim 1 step (c) line 6 before "with the hot air discharged" deleted "followed by treatment" and inserted -- and treated --.

Claims 1, 2, 4-7 and 10 are allowed.

The following is an examiner's statement of reasons for allowance:

As explained in the non final rejection, the closest prior art, **Leuenberger** (US 5,668,183), **Skelbæk** (WO 91/17821) and **Christensen** (US 5,487,916) in combination teach all the materials and most of the method steps recited by independent **claim 1**.

The allowable features not taught or suggested by the prior art are the structural features of the apparatus used in the method, specifically the nozzle of step (a).

Christensen teaches a nozzle arrangement with an outer cylinder to carry one component of the beadlet (figure 2:10), an inner cylinder (figure 2: vertical line between numbers 7 and 31), a circular slot where the two cylinder end, and inlet tube (figure 2:7) that ends in a rotary atomizer (disk, figure 2:35) and a circular gas inlet surrounding the outer cylinder (figure 2: bounded by 10 and 14).

Christensen teaches cylinders and not cones. However, the slopes of these passages determine the flow directions and densities. Therefore, it would have been obvious to one of ordinary skill in the art to optimize the slopes of the Christensen's passages in order to control the directions and intensities of their flows. Optimizing a result-effective parameter known in the art does not impart patentable distinction to an invention. See MPEP 2144.05 [R-5] II, in re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

However, neither Christensen nor the related prior art teaches or suggests closing the end of the outer cylinder (which corresponds to the first cone), making the rotary atomizer protrude downward past the inner cylinder (which corresponds to the second cone) or having the circular air channel terminate above the slot between the two cylinders. These three modifications, combined with the conversion of

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Christensen's cylinders into cones, represent a wholesale remodeling of Christensen's nozzle, for which there is no apparent motivation.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Magali P. Théodore whose telephone number is (571) 270-3960. The examiner can normally be reached on Monday through Friday 9:00 a.m. to 6:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina A. Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Magali P. Théodore/
Examiner, Art Unit 1791

/Christina Johnson/

Supervisory Patent Examiner, Art Unit 1791